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DESPATCH FROM THE SECRETARY OF STATE
FOR INDIA IN COUNCIL TO THE GOVERN-
MENT OF INDIA REGARDING MATTERS
CONNECTED WITH THE PENSIONS OF
OFFICERS OF THE CIVIL SERVICES IN
INDIA.

Presented to Parliament By Command of His Majesty.



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1922.

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Despatch from the Secretary of State for India in Council.

TO HIS EXCELLENCY THE RIGHT HONOURABLE THE GOVERNOR
GENERAL OF INDIA IN COUNCIL, NO. 5 (PUBLIC), DATED 9TH
FEBRUARY, 1922.

I have recently addressed you by telegram suggesting for the consideration of your Excellency's Government the desirability of taking early steps to remove the misapprehensions which I have reason to believe are widely

- (i) *Intention of a passage in the Resolution dated 8th November regarding premature retirement;*
(ii) *future security of pensions.*

entertained as to the meaning to be attached to the passage quoted in the margin¹ from paragraph 3 of the Resolution issued by your Government, with my approval, on the 8th November last, on the subject of the terms and conditions on which officers of certain Indian services who desired to be released from further service in consequence of the introduction of constitutional reforms may be permitted to retire prematurely on proportionate pension. It has

¹ "All applications must reach the Local Government before the 31st March, 1924, by which date officers will have had ample opportunity to appreciate the effects of the recent constitutional changes, and to arrive at a considered decision. Officers of the services specified who do not apply before that date will not be eligible for a pension on premature retirement in consequence of any constitutional developments which may subsequently take place."

been represented to me that this passage in the Resolution has been commonly interpreted as intended definitely to preclude any officer whose employment may hereafter be terminated prematurely either by the Secretary of State in Council under the constitution provided by the present Government of India Act, or by an Indian Dominion Government, should such be constituted by an instrument amending or repealing that Act, from claiming pensionary recognition of the services which he has rendered and compensation for their unexpected termination. And apart from the fear that such consequences are intended in the matter of compulsory retirement, I understand that the passage is further regarded as closing the door on any hope of the renewal of an offer similar to that held out by the Resolution, even on the occurrence of further legislation to amend the Government of India Act, which may have the effect of marking a further stage towards the grant to India of Dominion status. And the combined effect of these impressions has been, apparently, to give colour to the idea that a leading motive which prompted the Secretary of State in Council and Your Excellency's Government in framing the terms and conditions embodied in the orders of 8th November was a desire to induce as many as possible of the members of the all-India services, for whose maintenance, welfare and efficiency those authorities are directly responsible, to abandon their employment at the earliest possible date.

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2. Your Excellency's Government will, I am confident, share my deep regret that language should have been used which is capable of an interpretation so fundamentally at variance with our objects and intentions; and I trust that it is now clearly understood by the members of the services that—

- (i) nothing in your Resolution has reference, directly or indirectly, to the compulsory retirement of officers whose employment it may hereafter be decided by whatever authority to terminate for whatever reason, before they have completed such service as, under ordinary regulations and expectations, carries the claim to a pension;
- (ii) that when the time comes for His Majesty's Government to recommend to Parliament further legislation with the object of granting to India a larger measure of self-government, it will be the unquestionable duty of the Secretary of State in Council to consider fully the extent to which such changes affect the conditions of service of those who will be bound by them, and whether they are such as to necessitate a re-opening of opportunities for voluntary retirement on pension; that it will further be his duty to take steps to secure the enactment of such provisions to that end as may seem just and necessary; and that nothing in your Resolution was designed to absolve the Secretary of State in Council from this obligation; and
- (iii) that in fact the intention of the passage in question was simply to emphasise the circumstance that the right to apply for a proportionate pension was an exceptional right conferred on the express recommendation of a Joint Select Committee of both Houses, with the implied authority of Parliament, in order to meet the conditions which have been brought about by the Act of 1919, or which may arise in the course of constitutional development under that Act; and consequently that the right was one which, once offered and exhausted, it would not be proper for the Secretary of State in Council to renew, save as the result of a similar mandate given on account of constitutional changes arising out of further Parliamentary legislation.

3. I desire, however, to take this opportunity of endeavouring to dispel other analogous anxieties which have been brought to my notice as being felt by members and ex-members, not only of the Indian services, but also of the Home Establishment of the Secretary of State in Council, as to the security of their pensions (whether in course of payment or in prospect) in the event of India's acquiring full Dominion status, or such an approximation to that status as has the effect of transferring from the Secretary of State in Council to the Legislative Assembly some portion or the whole of that measure of control over the appropriation of the revenues of India and over the services which is by the present Act and statutory rules vested in the Secretary of State in Council.

4. It would, of course, be idle for me to pretend that any declaration by myself, by the Council of India, or by His Majesty's Government as at present constituted, would have the effect of binding any future Government or Parliament as to the measures which they should respectively propose and ratify to safeguard the existing and accruing rights of persons in the Civil Service of the Crown in India whose conditions of employment may be affected by whatever further legislation Parliament may, in its wisdom, decide hereafter to enact in pursuance of the policy inaugurated by the Act of 1919. But it is evidently not generally appreciated that no change in diminution of the powers of control now exercised by the Secretary of State in Council in this regard, nor in modification of the law which now makes such pensions a statutory charge upon the revenues of India, could be affected without the fullest public discussion and by means of express Parliamentary enactment. It cannot be anticipated that His Majesty's Government and Parliament will treat lightly their obligation to ensure as an essential part of such an enactment that all pensions current at the time shall continue to be paid, that those officers whose services may have to be compulsorily terminated shall be adequately compensated, and that those who are entitled to pensions shall receive them. But in any event, I desire to place on record, with the full concurrence of my Council, my conviction that no future Secretary of State in Council of India will be found wanting in his duty of securing the fulfilment of those obligations, or will be found willing to surrender in the smallest degree the control which he exercises under the existing law, save on conditions which will adequately ensure that rights and expectations which it is now his duty to protect are fully guaranteed.

I have, &c.,

(Signed) EDWIN S. MONTAGU.

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